

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**CIVIL NO. 3:03CV231
(3:00CR212)**

PAULITO SALAZAR-ACUNA,)	
)	
Petitioner,)	
)	
Vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on the Government's Response to the Order entered March 10, 2005. Since that time, the Petitioner has filed a reply and motion for summary judgment to which were attached two affidavits, a motion requesting a hearing and a motion for certain records.

The Petitioner's trial counsel has filed an affidavit as to the question of whether the Petitioner asked him to file a notice of appeal after the imposition of his sentence. Although counsel has averred as to his standard practice on this issue, he did not have a specific recollection about the issue in this instance. As a result, the Court finds it necessary to vacate the Petitioner's sentence and reimpose the same in order to provide him with an opportunity to file a direct appeal.

IT IS, THEREFORE, ORDERED that the Petitioner's motion to vacate, set aside, or correct judgment pursuant to 28 U.S.C. § 2255 is hereby **ALLOWED IN PART AND DENIED IN PART**. A Judgment is filed herewith.

IT IS FURTHER ORDERED that the remaining motions are hereby **DENIED** as moot.

Signed: May 9, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

